RAJYA SABHA

Tuesday the 21st March, 1995/ 30th Phalguna, 1916 (Saka)

The House met at eleven of the clock.

Mr. Chairman in the Chair

ORAL ANSWERS TO QUESTIONS

Export under duty exemption scheme

†101. SHRI P. UPENDRA:
SHRI CHIMANBHAI MEHTA:

Will the Minister of FINANCE be pleased to state :

(a) whether it is a fact that under quantity-based licence covered by notification No. 204/92 dated 10.5.92, the availment of Modvat credit in respect of indigenous inputs in the production of export products was allowed;

(b) whether the Customs Authorities the Central Excise Authorities, and the Licensing Authorities allowed Modvat Credit for such indigenous inputs and exporters had availed such credit in making exports under Duty Exemption Scheme;

(c) whether it is a fact that under Rule 57(F)) of Central Excise Rules such Modvat Credit was allowed in respect of inputs used for export production and also for utilising the same for domestic clearance of the finished goods or the by-product or the wastage generated;

(d) whether a review is taken of the above practice and interpretation;

(e) if so, what is the position now;

(f) under what rule the Excise Authorities have detained and seized imported materials worth rupees hundreds of crores after fulfilment of export obligation; and

(g) whether the restriction levied against transfer of goods after discharge of export obligation is contrary to import policy?

†The Question was actually asked on the floor of the House by Shri P. Upendra.

THE MINISTER OF STATE IN THE MINISTRY OF FINANCE (SHRI M. V. CHANDRASHEKAR MURTHY) : (a) to (g). A statement has been placed on the Table of the House.

Statement

(a) to (c) Yes Sir. The exporters are not to transfer their Advance Licences or transfer the goods imported duty free if they avail Modvat in respect of items permitted to be imported duty-free. In the case of exports under the VABAL modvat facilities are ntt available to any of the inputs under notification No. 208/92.

(f) In terms of notification No. 58/92 necessary.

(f) In terms of notification No. 58/92-Cus (NT) dated 31st July, 1992 issued under Section 4(1) of Customs Act, 1962 the Central Government has appointed the Collectors of Central Excise, Deputy Collectors of Central Excise, Assistant Collectors of Central Excise to be Customs officers within their respective jurisdiction. As per the above provisions such authorities can exercise powers under the Customs Act, 1962 for seizure of goods which have contravened the provisions of said Act and have become liable for confiscation Reports received so far do not indicate that the seizure or detention of such imported materials is to the magnitude of rupees hundreds of crores.

(g) Restriction against transfer of goods after discharge of export obligation under notification No. 204/92 Customs dated 19.5.92 are in conformity with the provisions of Para 67 of the Export & Import Policy, 1992—97.

SHRI P. UPENDRA: Sir, the hon Minister has only stated the existing position and reiterated the rules. In fact, the answer is more confusing than the present situation. A lot of confusion is there in this regard.

Sir, the Government has issued seven notification on the subject in seventy-five days. The main thrust of our question is, while the Commerce Ministry is trying to give a big boost to our exports, a large number of consignments have been detained at various ports by the Central Excise and Customs authorities. A lot of harassment is caused to the exporters. I do agree that there may be some misuse of the facilities offered. For example, I am told that garment consignments worth Rs. 100 crores are held up at different ports due to the wrangle over the A.R. IV Form.

The purpose of the Duty Exemption Scheme under the EXIM Policy of 1992-97 is to make the Indian exports competitive. This is being defeated by the Central Excise...

MR. CHAIRMAN: Frame your question, please.

SHRI P. UPENDRA: I am putting the question, Sir. The purpose is being defeated by the Central Excise authorities having taken a stand contrary to the provisions of rule 56A and rule 57A of the Central Exlise Rules. I understand this matter was raised in the Board of Trade meeting also, held on 24th February, 1995. In that meeting, the Member-in-Charge of the Customs and Central Excise Board gave some assurances to the industry and instructions were issued to the Customs authorities after that. The Collectors of Customs at the different ports are differently interpreting the rules. For example, while the Collectors at Calcutta and Delhi have liberally interpreted the rules, the others have not. Therefore, I would like to know from the hon. Minister whether he would assure the House that this confusion would be cleared and all the Collectors would take a common stand so that the purpose for which these facilities are being given is served.

THE MINISTER OF FINANCE (SHRI MANMOHAN SINGH): Mr. Chairman, Sir, the advanced licensing schemes have existed for a long time. Principally, there are two schemes of advanced licence. One is the quantity-based scheme. Then, in 1992, a new scheme-called the value-based advanced Licensing Scheme was introduced.

As far as the quantity-based advanced licensing scheme is concerned, it allows manufacturer exporters to take advantage of MODVAT. But then if they seek an advanced licence which is free of duty, these inputs cannot be sold, nor can the licence be transferred. If they do any of these things, that is a violation of the terms of the licence. By and large, as far as the quantity-based value scheme is concerned, it has functioned well. We have come across some cases of its misuse, and Custom Houses are duty-bound to issue show-cause notices to ensure that the scheme is not misused. Now there is antther scheme which came into existence, Value-based Advanced Licensing Scheme, which was devised to help exporters to have certain advantages and, at the same time, to ensure that all this flexibility was not misused. So, certain restrictions were placed on the import of sensitive or high-duty items. We have come across certain cases where this scheme has been not in accordance with what was stipulated. In the case of value-based licences, the real problem arises if MODVAT credit is taken by a manufacturer. Then, if he simultaneously takes advantage of the duty-free imported inputs, he cannot sell the licence nor can he transfer the goods. Now the difficulty arises where this condition of licence is not fulfilled. In this case customs authorities have to take necessary action.

SHRI P. UPENDRA: Sir, one more point to be noticed here is that there is no coordination between the Finance Ministry and the Commerce Ministry. They are working at cross purposes. The Finance Ministry, through the CBEC, issues notifications. Then the exporters and traders run to the Commerce Ministry. The Commerce Minister himself issued a clarification on one of the schemes which the hon. Minister has mentioned. What I want to know is whether there is any coordination machinery between the two Ministries before such notifications are issued. After all, heavens won't fall if a few days' delay is there. But why can't the

two Ministries work together and evolve a coordinating machinery so that such a confusion is not there among the officials and the Collectors of Customs? The second point is, why can't they consult the apex Chambers of Commerce also about their difficulties and problems before issuing such notifications? Will the Minister consider this?

SHRI MANMOHAN SINGH: Sir, I do appreciate that there should be effective coordination between the Commerce Ministry and the Finance Ministry, and we have made every effort to ensure that this coordination is there. I think only some weeks ago I had a meeting with my colleagues. We pointed out the difficulties which have arisen with the VABAL scheme, and my esteemed colleague, the Commerce Minister, has already taken action, I think, to plug some of the loopholes. Hereafter I expect this scheme will work, I think, with much less scope for misuse than is the case now.

SHRI P. UPENDRA: What about consultation with Chamber of Commerce?

MR. CHAIRMAN: Shri Chimanbhai Mehta.

SHRI CHIMANBHAI MEHTA: Sir, I heard the hon. Minister. When he says that when goods that are manufactured in a factory are to be exported a manufacturer takes advantage of MODVAT, he is absolutely correct. But 60 per cent of the trade of our country is handled by traders. So the traders get finished goods from the factories and they are not availing MODVAT. So, when a trader exports the goods, he has no duty exemption available on the inputs under MODVAT. Then he is allowed import against the export of goods, and when he imports there is a duty exemption on the goods. What is happening is, suppose I am a trader and I am importing goods. I don't have a factory. But if I want to send the goods to a factory for export, then they detain my goods. Well, a trader cannot produce goods if he does not have a factory. So he has to send them to a factory and he has not taken advantage of MODVAT in the initial stage. This precisely, is the question. Therefore, they had to issue seven notifications in 75 days. This Department is highly confused with various kind of protective interpretations. I want the hon. Minister to clarify whether, if a trader exports without taking advantage of MODVAT, he is not allowed to get duty-free goods and send his goods to the factory. This is the only question. Send to the factories the goods to be re-exported.

SHRI MANMOHAN SINGH: Sir, until last year every trader had to identify the exporting manufacturer. Last year, for some reason this stipulation was done away with. Now, if anybody violates the rules of the game with regard to the conditions on which the VABAL licence has been given, we can find it out. Wherever we deal with a manufacturer-exporter, we can I think find it out, we can identify it. In the case of traders, I think, we are not able to identify it. If a trader utilises a licence in violatin of the original porposes of the licence, then, obiviously, action has to be taken.

SHRI CHIMANBHAI MEHTA: Sir, he has not answered it. I am saying that a trader has imported goods against previous exports. He is not a manufacturer. Is he not allowed to do it? If you want a stipulation that a particular factory should be identified, all right. let him identify it. I do not want that to be misused. With the identification of the factory, can he not get the goods produced again for export? This is the point. He has not answered this point.

MR. CHAIRMAN: Mr. Minister. do you want to say anything further?

SHRI MANMOHAN SINGH: Sir, I think traders must have some exporting manufacturers . (*Interruptions*)

If the exporting manufacturers have not taken advantage of the MODVAT scheme, then, there is no problem. But, if the exporting manufacturers have taken advantage of the MODVAT scheme, have taken advantage by themselves or

through traders and have also taken advantage of dutyfree imports, then, they are getting double benefits to which they are not entitled.

SHRI SATISH AGARWAL: Sir, I am one with the Finance Minister that misuse should be checked, and nobody should be permitted to exploit the scheme for selfish ends. May I know from the hon. Finance Minister whether it is not a fact that garments and silk goods are outside the purview of excise levy? If so, where is the question of availability of MODVAT? If not, why has the Delhi Customs issued a notification in January, 1995 asking for such a formality to be fulfilled by them? Will you kindly sort out the issue with the apex chambers of commerce so far as the garment exporters are concerned because now the garment exporters are going to face a big challenge in the world market?

SHRI MANMOHAN SINGH: I do appreciate the role of the garment exporters in the country's export trade, and I can assure the House that if any genuine problems are brought to our notice, it is our sincere resolve to sort them out. But, these schemes have also to be implemented in accordance with the rules and regulations which have been laid down. If anybody violates these rules and regulations, I don't think, we can say that they are being harassed.

With regard to the specific case of garments, if the hon. Member puts a specific question, I will come prepared with a detailed answer.

SHRI SATISH AGARWAL: No, no. I am one with you on that score. My only question is that so far as the garment exporters are concerned, there is no excise levy on them. So, where is the question of availability of MODVAT? So, why ask them to fulfil those formalities? If not, then, why was that notification issued by the Delhi Customs, asking them to do all this? That is the only limited question I am putting to you. You can make enquiries and do the needful. That is all.

SHRI MANMOHAN SINGH: Sir, I will make enquiries. But, in addition, this is a general question. I am not today equipped to answer questions on each and every industry's problems. But, I will make an enquiry.

SHRI VIREN J. SHAH: Sir, so far as increasing the export earnings is concerned, I don't think anyone else than the hon. Finance Minister would have greater concern about it for achieving a favourable balance of trade for India. I am also in total agreement with him that any deliberate misuse has to be taken care of.

It was brought to our notice—all newspapers in Bombay were full of that—that goods worth several hundred crores of rupees were lying and that they were not being exported—this has been denied in the reply—for some reasons not necessarily related to *Mala fide* or misuse but owing to a difference in interpretation between the Excise Department and the Customs Department. Some of the reasons were no necessarily *mala fide* or misuse but it was a matter of difference in interpretation between the Excise Department and the Customs Department. Even in cases where there was no question of avoiding payment of legitimate dues to the Government, because of differece in interpretation between the two authorities, these were held up. I believe that some clarifications went from the Board and the things started moving. So, would the hon. Finance Minister look into it to sort it out? The Excise Officers may be honestly believing that their interpretation is correct and hence might be creating this situation. This may be because of misinterpretation, not because of bad intention. However, would the hon. Minister kindly take steps to clarify that problems are not created in genuine cases and that the Excise Department and Customs Department are also so clear that they know that what they are doing is right and also that exporters be producers are not put to any disadvantage.

SHRI MANMOHAN SINGH: Sir, I had said earlier that we are as sincere as anybody else in seeing that nothing is done as hurt the country's exports. If any specific problem of lack of coordination between the Customs Department on the one hand and the Excise Department on the other is brought to my notice, I will look into it.

ऊर्जा के क्षेत्र में हस्ताक्षरित समझौता-ज्ञापन

*102. **श्री रामजी लाल** : क्या **विद्युत** मंत्री यह बताने की कृपा करेंगे कि:

(क) क्या यह सच है कि भारत सरकार ने पिछले कई महीनों में ऊर्जा क्षेत्र के लिये अनेक समझौता-ज्ञापनों पर हस्ताक्षर किये हैं;

(ख) यदि हां, तो उनका ब्यौरा क्या है तथा कितनी परियोजनायें निकट भविष्य में चालू हो जाएंगी और इनके परिणाम-स्वरूप कितनी अतिरिक्त बिजली तैयार हो सकेगी;

(ग) क्या इन समझौता-ज्ञापनों के जरिये ऊर्जा क्षेत्र में निवेश जारी है; और

(घ) इस बारे में सरकार की क्या नीति है?

विद्युत मंत्रालय में राज्य मंत्री (श्रीमती उर्मिला चिमनभाई पटेल) : (क) से (घ): विवरण सभा पटल पर रख दिया गया है।

विवरण

(क) जी, हां। राज्य सरकारों, राज्य बिजली बोर्डों, पावरग्रिड कारपोरेशन आफ इंडिया लि. तथा ऊर्जा प्रबंध केन्द्र के बीच निजी विद्युत प्रवर्तकों के साथ समझौता-ज्ञापनों पर हस्ताक्षर किये गये हैं।

(ख) भारत सरकार के पास उपलब्ध सूचना के अनुसार ब्यौरा अनुपत्र में दिया गया है। [**देखिये** परिशिष्ट 173, अनुपत्र संख्या 25] निजी विद्युत परियोजनाओं का प्रचालन, इनके लिये सभी अपेक्षित स्वीकृतियां, वित्तीय समापन होने और परियोजनाओं का निर्माणकार्य पूरा हो जाने के पश्चात ही किया जा सकता है। ऐसी परियोजनाओं में से दभोल चरण-I (695 मे.वा.), इब घाटी ताप विद्युत केन्द्र (420 मे.वा.) और पागुथान सी सी जी टी (655 मे.वा.) के लिये सभी प्रकार की स्वीकृतियां प्राप्त कर ली गई हैं और दभोल चरण-I ने वित्तीय समापन की स्थिति भी प्राप्त कर ली है।

(ग) और (घ) दिनांक 18-01-1995 के पत्र के जरिये भारत सरकार ने सभी राज्य सरकारों को यह सूचित कर दिया है कि भावी विद्युत परियोजनायें प्रस्तुत किए जाने के लिये समझौता ज्ञापन की पद्धति के स्थान पर प्रतिस्पर्धात्मक प्रक्रिया को अपनाया जाना चाहिये। तथापि, विद्यमान समझौता ज्ञापनों के वित्तीय समापन हेतु समुचित समयावधि दी जायेगी।

श्री रामजी लाल : सभापति जी, मंत्री महोदय ने सभा पटल पर रखे विवरण में 121 एम०ओ०यू० साइन जाने का जिक्र किया है और कहा है कि—

"Mous have been signed between the State Government, State Electricity Boards, Powergrid Corporation of India Limited and Energy Management Centre with private power proponents."

मैं मंत्री महोदय को मुबारकवाद देना चाहता हूं कि इस थोड़े ही समय में 121 एम०ओ०यू० साइन किये गये है जिसके संबंध में आंध्र प्रदेश से लेकर हरियाणा और सारा विवरण इस पत्र में दिया हुआ है। सभापति जी यह जो 121 एम० ओ०यू० साइन किये गये है जिनके जरिये 56,579 मेगावाट बिजली तैयार होगी, मैं आपके द्वारा मंत्री महोदय से जानना चाहूंगा कि ये प्रोजेक्ट कब तक तैयार हो जायेंगे और इन सबसे बिजली का जनरेशन और प्रोडक्शन कब तक शुरू